

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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YAHOO! INC., a Delaware corporation,

Plaintiff,

v.

DAIANN NAKCHAN, ADEBIMPE F. POGOSON,  
EMMANUEL C. ONYEMA, AISHA BUHARI,  
CHINEDU MBONU, CHIBUZOR MBONU, CHIKA  
MBONU, AUDITH INVESTMENTS LTD., CHEN  
CHIEN-CHANG, CHEN CHIEN-ZHOU, ALAMIN  
INDUSTRIAL CORP.  
(a/k/a the "Yahoo! Lottery Spammers")

Defendants.  
----- X

**ANSWER TO  
COUNTERCLAIMS**

**JURY TRIAL DEMANDED**

Civil Action No.: 08-CIV-4581  
(LTS) (THK)

Plaintiff Yahoo! Inc. ("Yahoo!"), by its attorneys, Foley & Lardner LLP, hereby submits this Answer to Counterclaims in response to Defendant Emmanuel Onyema's Amended Answer & Counterclaim [Docket No. 44] (the "Counterclaim"), and states as follows:

**COUNTERCLAIM**

1. Yahoo! admits that Yahoo! has accused Defendant Emmanuel C. Onyema ("Onyema") of engaging in Internet spamming, as more fully described in the Third Amended Complaint. Yahoo! otherwise denies the allegations of Paragraph 1 of the Counterclaim.

2. Yahoo! denies the allegations of Paragraph 2 of the Counterclaim.

3. Yahoo! denies the allegations of Paragraph 3 of the Counterclaim.

4. Yahoo! lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 4 of the Counterclaim, and therefore, denies the same.

## **AFFIRMATIVE DEFENSES**

### **FIRST AFFIRMATIVE DEFENSE**

Onyema's claims are barred, in whole or in part, for failure to state a claim upon which relief can be granted.

### **SECOND AFFIRMATIVE DEFENSE**

Yahoo! presently has insufficient knowledge or information on which to form a belief as to whether it may have additional, as yet unstated, affirmative defenses available. Yahoo! reserves the right to assert additional affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure or any other defenses, in law or in equity, that may exist or in the future be available based on the discovery and further factual investigation of this case.

### **JURY TRIAL DEMAND**

Yahoo! hereby demands a trial by jury pursuant to Fed. R. Civ. P. 38.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Yahoo! prays for entry of judgment:

- A. That Onyema's Counterclaims be dismissed in their entirety, and that Onyema taking nothing thereby;
- B. That Yahoo! be awarded its costs incurred herein;
- C. That Yahoo! be awarded its attorney's fees; and
- D. For such other and further relief as the Court determines to be reasonable and just.

Respectfully submitted,

YAHOO! INC.

Dated: June 7, 2010

By: 

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*Attorneys for Plaintiff YAHOO! INC.*

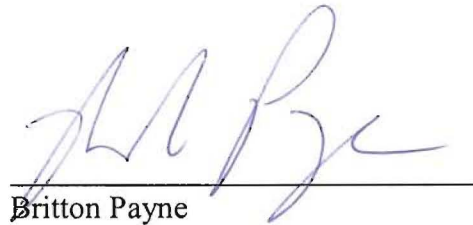
### **CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing ANSWER TO COUNTERCLAIMS was served by courier and by e-mail the 7th day of June 2010 upon defendant Emmanuel C. Onyema, as follows:

Emmanuel C. Onyema  
2324 Becard Drive  
Mesquite, Texas 75181  
eonyema02@yahoo.com

and upon his last attorney of record by courier and by e-mail as follows:

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Britton Payne